

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

THE STATE OF TEXAS; TEXAS HEALTH
AND HUMAN SERVICES COMMISSION,

Plaintiffs,

V.

CHIQUITA BROOKS-LASURE, in her official capacity as Administrator of the Centers for Medicare & Medicaid Services, *et al.*,

Defendants.

Case No. 6:21-cv-00191-JCB

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

§
STATE OF TEXAS, TEXAS §
HEALTH AND HUMAN SERVICES §
COMMISSION, §
§
Plaintiffs, § Case No. 6:21-cv-00191
§
v. §
§
CHIQUITA BROOKS-LASURE, in §
her official capacity as §
Administrator of the Centers for §
Medicare & Medicaid Services; THE §
CENTERS FOR MEDICARE AND §
MEDICAID SERVICES; XAVIER §
BECERRA, in his official capacity as §
Secretary of the Department of §
Health and Human Services; the §
UNITED STATES DEPARTMENT §
OF HEALTH AND HUMAN §
SERVICES; and the UNITED §
STATES OF AMERICA, §
§
Defendants. §

DECLARATION OF VICTORIA GRADY

STATE OF TEXAS §
COUNTY OF TRAVIS §

I, Victoria Grady, do hereby swear, affirm, and attest as follows, based upon my personal knowledge of the matters contained herein:

1. My name is Victoria Grady, I am over 18 years of age, of sound mind, and capable of making this declaration. I have personal knowledge of the facts stated

herein and they are true and correct. I would testify to the facts stated in this declaration in open court if called upon to do so.

2. I currently work as the Director of Provider Finance for the Texas Health and Human Services Commission (HHSC) and have oversight of the Provider Finance Department. I've held this position since September 24, 2018. Before that, I was the Deputy Director of Provider Finance, Senior Advisor to the Director of Provider Finance, and Government Relations Specialist for Finance. I have worked at HHSC since 2014.

3. The pending CHIRP, TIPPS, and RAPPS programs operate as directed payments to Medicaid managed care organizations (MCOs), or health plans, who make additional payments to providers beyond the contractual rate between the MCO and the provider, at the state's direction. Texas makes an additional payment on a per member per month basis to the MCO for each Medicaid client who receives coverage from the MCO. Texas can only direct those payments after receiving prior written approval of the programs from the Centers for Medicare and Medicaid Services (CMS). Without the additional funds being paid to the MCOs, the MCOs do not have resources to make the state directed payments to providers. Due to technological and operational requirements to administer Medicaid managed care and make billions of dollars of payments to MCOs each month, the MCO payment rates must be put into the payment system by approximately the 5th date of each month for payment for the subsequent month. For example, to issue MCO payments in February, HHSC must load into the payment system rates by January 1, or to make payments in March, HHSC must load the rates into the payment system by February 1. Prior to loading the rates, HHSC must have advance notice to allow for system entry and testing.

4. CMS has continued to withhold approval of CHIRP, TIPPS, and RAPPS. As a result, Texas hospitals, physicians, and rural health clinics enrolled in CHIRP, TIPPS, and RAPPS, respectively, will be without these critical payments for at least six months while battling another wave of COVID-19. More specifically, HHSC is unable to prepare the MCO rates to issue MCO payments for February, and the earliest possible date for payments to begin is now March 1, 2022.

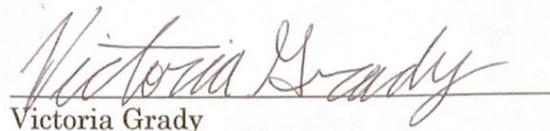
5. Texas Medicaid providers are experiencing extreme duress due to the absence of these payments. Since September 2021 when UHRIP ceased and authority for the DSRIP pool expired, Texas has faced the surge of COVID-19's Delta variant and now another emerging surge of COVID-19's Omicron variant. The Delta surge did not dissipate until early November in Texas; the surge associated with Omicron began in Texas in early December and is not forecasted to peak until late January or mid-February. Providers caring for patients amidst these surges are grappling with a healthcare staffing crisis that has been directly caused by COVID-19 and is getting worse with each passing month. Providers increasingly state to me that they are unable to sustain staffing costs and, with increased costs for goods and supplies,

they are fearful that they will exhaust their ability to continue to provide care for Medicaid beneficiaries.

6. Providers in our medically under-served regions in Texas (like the Rio Grande Valley and rural communities) have indicated that they are at risk of closure if a solution is not found quickly. In particular, representatives for rural hospitals and rural health clinics, including providers in northeast Texas, have indicated that they are in immediate jeopardy. If these providers close, the closure is likely to be permanent, as I explained in prior declarations. *See, e.g.*, ECF 34-2 ¶ 17.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 6th day of January 2022.



Victoria Grady